

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-001-02-1-5-00622
Parcel #: 001-01-39-0186-0004
Petition #: 45-001-02-1-5-00623
Parcel #: 001-01-39-0186-0006
Petition #: 45-001-02-1-5-00624
Parcel #: 001-01-39-0186-0005
Petition #: 45-001-02-1-5-00625
Parcel #: 001-01-39-0186-0007
Petitioner: IN Construction Service, Inc.
Respondent: Department of Local Government Finance
Assessment Year: 2002

The Indiana Board of Tax Review (the "Board") issues this determination in the above matter, and finds and concludes as follows:

Procedural History

1. An informal hearing as described in Ind. Code § 6-1.1-4-33 was held between the Petitioner and the Respondent on February 17, 2004. The Department of Local Government Finance (DLGF) determined that the Petitioner's property tax assessment for the subject properties was \$5,500 per parcel and notified the Petitioner on March 31, 2004.
2. The Petitioner filed Form 139L petitions on April 30, 2004.
3. The Board issued a notice of hearing to the parties on October 8, 2004.
4. A hearing was held on November 15, 2004 in Crown Point, Indiana before Special Master Peter Salvesson.

Facts

5. The subject properties are vacant residential lots located at 4818-4836 Buchanan Street, Gary, in Calumet Township.
6. The Special Master did not conduct an on-site visit of the property.

7. Assessed Value for each of the subject properties as determined by the DLGF:

Land \$5,500	Improvements \$0	Total \$5,500
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 Assessed Value requested verbally by the Petitioner during hearing:

Land \$1,000	Improvements \$0	Total \$1,000
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8. The persons indicated on the sign-in sheet (Board Exhibit C) were present at the hearing.
9. Persons sworn in at hearing:

For Petitioner:	Jeff Cleary, President of IN Construction Service, Inc.
For Respondent:	Anthony Garrison, Representing the DLGF

Issue

10. Summary of Petitioner's contentions in support of alleged error in assessment:
 - a. The Petitioner contends that the subject parcels do not have utilities or access to sewer service. *Cleary Testimony and Petitioner Exhibit 2.*
 - b. The Petitioner contends that the subject parcels cannot be improved per the Zoning Ordinance of Lake County. *Cleary Testimony and Petitioner Exhibits 2 and 4.*
 - c. The Petitioner contends that the area surrounding the subject parcels have experienced such severe and widespread economic depression that the value of the subject parcel is negatively affected. *Cleary Testimony and Petitioner Exhibit 2.*
11. Summary of Respondent's contentions in support of assessment:
 The Respondent contends that the subject parcels were valued as unimproved residential lots and, as such, each has a 20% negative influence factor applied. *Garrison Testimony and Respondent Exhibit 2.*

Record

12. The official record for this matter is made up of the following:
 - a. The Petition and all subsequent pre-hearing submissions by either party.
 - b. The tape recording of the hearing labeled Lake Co. #703.
 - c. Exhibits:
 - Petitioner Exhibit 1: Form 139L Petition
 - Petitioner Exhibit 2: Summary of Petitioner's Arguments
 - Petitioner Exhibit 3: Property Record Cards
 - Petitioner Exhibit 4: Section 5.1 of The Lake County, Indiana Zoning Ordinance
 - Petitioner Exhibit 5: Photographs of Surrounding Parcels¹
- Respondent Exhibit 1: Form 139L Petition
 Respondent Exhibit 2: Subject property record card

¹ The Petitioner listed Exhibit 5 on the coversheet, but no photographs were submitted.

Respondent Exhibit 3: Maps

Board Exhibit A: Form 139L Petition

Board Exhibit B: Notice of Hearing

Board Exhibit C: Hearing Sign in Sheet

- d. These Findings and Conclusions.

Analysis

13. The most applicable governing cases are:
- a. A petitioner seeking review of a determination of an assessing official has the burden to establish a prima facie case proving, by preponderance of the evidence, that the current assessment is incorrect, and specifically what the correct assessment would be. *See Meridian Towers East & West v. Washington Twp. Assessor*, 805 N.E.2d at 475, 478 (Ind. Tax Ct. 2003); *see also, Clark v. State Bd. Of Tax Comm'rs*, 694 N.E.2d 1230 (Ind. Tax Ct. 1998).
 - b. In making its case, the taxpayer must explain how each piece of evidence is relevant to the requested assessment. *See Indianapolis Racquet Club, Inc. v. Wash. Twp. Assessor*, 802 N.E.2d 1018, 1022 (Ind. Tax Ct. 2004) ("[I]t is the taxpayer's duty to walk the Indiana Board . . . through every element of the analysis").
 - c. Once the Petitioner establishes a prima facie case, the burden shifts to the assessing official to rebut the Petitioner's evidence. *See American United Life Ins. Co. v. Maley*, 803 N.E.2d 276 (Ind. Tax Ct. 2004). The assessing official must offer evidence that impeaches or rebuts the Petitioner's evidence. *Id.*; *Meridian Towers*, 805 N.E.2d at 479.
14. The Petitioner did not provide sufficient evidence and testimony to support the Petitioner's contentions. This conclusion was arrived at because:
- a. The Petitioner did not provide evidence as to the fair market value of the subject properties as of the January 1, 1999 appraisal date.
 - b. The subject properties are contiguous parcels owned by the Petitioner that combined would be large enough to qualify for improvement.
 - c. The Petitioner failed to show that the zoning restrictions applied to contiguous lots. *Petitioner Exhibit 4*.
 - d. The property record cards correctly show that the subject parcels have received a 20% reduction for being unimproved. *Respondent Exhibit 2*.
 - e. The Petitioner did not establish that the assessment was incorrect and did not establish what the correct assessment should be.

Conclusion

15. The Petitioner did not establish a prima facie case. The Board finds in favor of the Respondent.

Final Determination

In accordance with the above findings and conclusions, the Indiana Board of Tax Review now determines that the assessment should not be changed.

ISSUED: _____

Commissioner,
Indiana Board of Tax Review

IMPORTANT NOTICE

- APPEAL RIGHTS -

You may petition for judicial review of this final determination pursuant to the provisions of Indiana Code § 6-1.1-15-5. The action shall be taken to the Indiana Tax Court under Indiana Code § 4-21.5-5. To initiate a proceeding for judicial review you must take the action required within forty-five (45) days of the date of this notice.